

Fayyad, Salam

Plaintiffs designated testimony concerning the following topics:

1. What is the PLO, what is the PA, what is the connection between them (pp. 46-47).
2. PLO's funding come from PA (75-76).
3. PNF funding comes from PA (77-78).
4. Arafat was personally involved in finances of PA (90).¹

Plaintiffs hereby provide the following responses to defendants' counter-designations:

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
14:16-15:11	No objection.	
16:7-17:7	No objection.	
17:11-13	No objection.	
26:12-19	No objection.	
27:9-15	No objection.	
27:20-22	No objection.	
29:13-20	No objection.	
30:25-31:17	No objection.	
31:18-31:21	Beyond the scope of Rule 106; relevance; Rule 403.	The witness testifies that Hamas violently took over Gaza.
31:22-32:3	No objection.	
48:1-7 48:10-15 48:17-50:2 48:10-15	These passages were played in plaintiffs' case as "in fairness" as counter-designations.	
58:12-60:15	Beyond the scope of Rule 106; no foundation laid for personal knowledge (the witness was not a member of Fatah).	Mr. Fayyad is not a member of Fatah, and defendants did not lay a foundation of personal knowledge for his testimony.
61:8-62:1 62:10-63:3	Beyond the scope; no foundation of personal knowledge laid for opinion testimony from this lay witness.	The witness defines the term "Intifada" and says it that no-one organized the Intifada. The witness condemns violence. This testimony opens the door to rebuttal testimony by Marcus.

¹ Plaintiffs withdrew their designations on pages 50 and 82-83, which concerned the Fatah, as Mr. Fayyad is not a member of Fatah.

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
62:2-9 (in fairness cross-designation)	If the prior passage is read, this should be included in fairness.	
64:18-65:2	Beyond the scope of Rule 106; relevance.	The witness condemns suicide terrorism. This testimony opens the door to rebuttal testimony by Marcus.
70:9-13	Beyond the scope of Rule 106; relevance.	The witness condemns violence. This testimony opens the door to rebuttal testimony by Marcus.
78:21-79:14	Beyond the scope of Rule 106; no foundation of personal knowledge laid for lay opinion testimony.	The witness testifies that he has never funded violent acts, and the prisoner payments are social welfare.
98:25-99:17	Beyond the scope of Rule 106; no foundation laid of personal knowledge with regard to the “EU organ” (lines 9-17).	The witness testifies that he and an EU agency of some kind investigated whether PA funds were used for terror activities.
101:21-25 102:5-6 102:9-103:2	Beyond the scope of Rule 106; Rule 403; lack of personal knowledge.	The witness testifies about a European report (the “OLAF” Report) was published in response to an Israeli report prepared under the supervision of Dani Naveh. The Naveh Report (Ex. 539) was excluded at the request of the defendants
104:15-22	Beyond the scope of Rule 106; hearsay; Rule 403; lack of personal knowledge.	The witness describes an “OLAF Report” that disagreed with the Naveh Report (Ex. 539) and found no terror funding. Offering this testimony opens the door to admission of the Naveh Report.
156:7-8 156:11-12 156:16-157:7 157:21-159:6	Beyond the scope of Rule 106; Rule 403; relevance.	The witness attended a demonstration in 2010 and commented to the press and so offers an explanation of his comments by condoning violence. This testimony opens the door to rebuttal testimony by Marcus.
160:1-9 161:4-162:12	Beyond the scope of Rule 106; 403; relevance.	The witness explains his opinions about Jewish communities and Israeli settlements and their legality under international law.
171:8-16 171:25-173:24 175:3-21	Beyond the scope of Rule 106; Rule 403; relevance.	The witness offers his opinions about the “separation wall.”

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
176:3-177:8		<p>The witness condemns the stabbing of a soldier that occurred in 2010.</p> <p>This testimony opens the door to rebuttal testimony by Marcus.</p>
196:4-197:16	Beyond the scope of Rule 106; Rule 403; failure to lay a foundation of personal knowledge	The witness says that the security forces had a “total lack of capacity,” and similar sweeping generalizations.

Abu-Libdeh, Hasan

Plaintiffs designated testimony concerning the following topics:

1. The witness participated in the Oslo negotiations (p. 21).
2. The PA is accountable to PLO executive committee (pp. 119-20)
3. The PLO is superior to the PA (p. 130).
4. The Palestinian Legislative Council overlaps with the Palestinian National Council (p. 134).
5. The Passia Directory from 2002 is reliable (pp. 141-42)
6. Yasser Arafat was commander in chief of the PA security forces (p. 179)
7. The PA gave money to Fatah (pp. 207-08)

Plaintiffs hereby provide the following responses to defendants' counter-designations:

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
7:18-22	No objection.	
8:14-16	No objection.	
8:19-9:6	No objection.	
9:10-22	No objection.	
10:2-5	No objection.	
24:23-25:3	No objection.	
25:20-26:6	No objection.	
26:8-26:25	No foundation laid showing personal knowledge.	The witness testifies about the history of the PLO, but says he held no position in the PLO and purports to speak for "all Palestinians."
27:1-27:11	No objection.	
30:22-31:9	No objection.	
31:20-32:2 32:8-17	Outside the scope of the witness' competency.	The witness describes the "legal structure" of the PA, even though his counsel's own objection at 32:3-7 admits the witness's lack of competency to discuss it.
33:14-34:5	No objection.	
35:1-10	Beyond the scope of Rule 106; relevance.	The witness clarifies what he meant in an earlier answer by the "Madrid" negotiations, but there is no designated testimony about the "Madrid" negotiations.
35:16-36:16	No objection.	
42:11-18	No objection.	
42:23-43:7	No objection.	

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
43:8-12	Beyond the scope of Rule 106; Rule 403; relevance.	The witness testifies: “We are still occupied by Israel” and “Israel established the minimum institutional basis for serving the public.”
43:13-23	No objection.	
45:10-16	No objection.	
50:22-51:22	No objection.	
55:15-56:3	Beyond the scope of Rule 106; Rule 403; relevance; failure to lay a foundation of personal knowledge.	The witness testifies that “Israel withdrew its commitment” under the Oslo Accords.
57:6-14	Beyond the scope of Rule 106; Rule 403; relevance; failure to lay a foundation of personal knowledge.	The witness testifies that “Israel withdrew its commitment” under the Oslo Accords.
82:13-18	No objection.	
87:4-88:4	No objection.	
100:18-101:11	No objection.	
105:9-23	No objection.	
108:2-109:10	No personal knowledge.	The witness testifies that Fatah, the PA and the PLO were all independent and “had only one thing in common, the chairman.” The witness, however, was testifying in his “capacity as the designated representative” of the PA, and no foundation was laid for his personal knowledge, such as whether other employees were members of Fatah.
111:8-112:2	No objection.	
112:3-17 113:3-19	No personal knowledge, per defendants’ objection on p. 109, lines 22-25	The witness testifies as to how Arafat functioned during the course of his business tenure as the common chairman of the PLO, Fatah, and PA. The witness, however, was testifying in his “capacity as the designated representative” of the PA, and no foundation was laid for his personal knowledge such as whether he even ever met Arafat.
117:21-118:11	No objection.	
119:5-21	Beyond the scope of Rule 106; relevance.	The witness describes a division of responsibility between the PA and the PLO for negotiations with Israel.
124:25-125:15	Beyond the scope of Rule 106; Rule 403.	The witness testifies: “In practice, Area A has been turned by the Israeli side into Area B”
151:24-152:4	Beyond the scope of Rule 106; Rule 403.	The witness expresses his opinion on who started the Intifada.
152:19-153:5	Beyond the scope of Rule 106; Rule 403.	The witness explains his opinion of what the “Intifada” was.

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
153:7-154:4 154:7-24	Beyond the scope of Rule 106; Rule 403.	The witness explains his opinion of what the “First Intifada” was.
161:6-164:17	Beyond the scope of Rule 106; Rule 403.	The witness explains his opinion of when the “Intifada” started and ended.
165:3-6	Not evidence; beyond the scope of Rule 106; Rule 403.	The interpreter says “liberation party” and the witness says what that party was.
166:2-8 166:12-167:1	Beyond the scope of Rule 106; Rule 403; no foundation laid showing personal knowledge.	The witness denies knowledge that the PA provided money, weapons or training to anyone in support of the Second Intifada.
167:6-168:18	Beyond the scope of Rule 106; no foundation laid showing personal knowledge.	The witness denies that the PA incited violence, and says that Fatah supported only peaceful demonstrations during the Intifada. This testimony opens the door to rebuttal testimony by Marcus.
169:21-171:4	Beyond the scope of Rule 106; no foundation of personal knowledge laid	The witness claims that there is no institution called the al-Aqsa Martyrs Brigades and that the PA did not have any relations with it.
174:15-21 175:3-15	Beyond the scope of Rule 106; no foundation laid showing personal knowledge.	The witness claims that there is nothing called al-Aqsa Martyrs’ Brigade, but rather it was a “phenomenon of several groups acting with motives.”
175:17-176:22	Beyond the scope of Rule 106; no personal knowledge.	The witness debates whether the Al Aqsa Martyrs Brigades existed. The witness lacks personal knowledge, as he admits (“I read about it in the newspapers,” “we didn’t have concrete information”).
177:4-178:8	Beyond the scope of Rule 106; no foundation of personal knowledge laid.	The witness discusses what the PA did with regard to the Al Aqsa Martyrs Brigades after 2003.
181:25-182:11 182:23-183:3 192:20	Beyond the scope of Rule 106; no foundation of personal knowledge laid.	The witness discusses Marwan Barghouti’s job.
185:2-6 (in fairness cross-designation)	If the prior passage is permitted, this should be read in fairness.	
192:20-193:6	Beyond the scope of Rule 106; no foundation laid showing personal knowledge.	The witness says that the PA and the State of Israel teamed up to neutralize the Al Aqsa Martyrs Brigades after 2003. This testimony opens the door to rebuttal testimony by Marcus.
192:11-18 (in fairness cross-designation)	If the prior passage is permitted, this should be read in fairness.	

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
193:12-194:4	Beyond the scope of Rule 106.	The witness says that Palestinian Legislative council called for an end to the Al Aqsa Martyrs Brigades. This testimony opens the door to rebuttal testimony by Marcus.
200:1-5 200:8-201:2	No objection.	
203:24-204:6	Beyond the scope of Rule 106; no foundation laid showing personal knowledge.	The witness says that Al Aqsa Martyrs Brigades does not exist.
204:25-205:5 205:8-20	Beyond the scope of Rule 106; no foundation laid showing personal knowledge.	The witness testifies that statements concerning the relationship between Al Aqsa Martyrs Brigades and Fatah do not bind the PA or reflect reality.
212:9-16	Beyond the scope of Rule 106; no foundation of personal knowledge laid for this lay opinion; not helpful to the jury.	The witness testifies that people have freedom of expression in the “Palestinian context.” This testimony opens the door to rebuttal testimony by Marcus.
214:8-20 214:25-216:3 216:6-11 216:13-217:17 217:23-218:6 218:8-19	Beyond the scope of Rule 106; no foundation laid showing personal knowledge.	The witness testifies that Abdel Fattah Hamayel was charged with the responsibility of neutralizing the Al Aqsa Martyrs Brigades and the PA implemented such responsibility after 2003. This case was taken in a different case with different counsel (not Tolchin) with a different interest (the decedent was killed in 2002 and the witness was claiming that “neutralizing the Al Aqsa Martyrs Brigades” started in 2003).
226:21-228:10	Beyond the scope of Rule 106; no foundation laid showing personal knowledge.	The witness testifies that the PA and the PLO had a policy against violence and denouncing violence from 1994 and 1988, respectively, to the present. This testimony opens the door to rebuttal testimony by Marcus.
228:22-230:7	No objection	
230:10-21	Beyond the scope of Rule 106; Rule 403; relevance; no foundation laid showing personal knowledge.	The witness testifies that Hamas cannot legally win a PA election.
232:9-21	Beyond the scope of Rule 106; Rule 403; no foundation laid showing personal knowledge.	The witness testifies that Israel “literally destroyed the security forces at the Palestinian Authority and held Abu Ammar hostage in the Muqata'a.

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
233:12-17	Beyond the scope of Rule 106; no foundation laid showing personal knowledge; Rule 403.	The witness testifies that in March, April, May 2002, the “Israeli forces” were “literally” “occupying” the “area.” No foundation was laid showing personal knowledge. The witness does not even testify where he was at the time.
233:23-235:2	Beyond the scope of Rule 106; no foundation laid showing personal knowledge.	There witness testifies that were several spokesmen for the PA, and official statements are usually communicated in writing. This testimony opens the door to rebuttal testimony by Marcus

Al Sheikh, Hussein

Plaintiffs designated testimony concerning the following topics:

1. Payment of the witness's salary by the PA during the entire time he worked as Secretary of Fatah from 1999 to 2005 (p. 72, 74).
2. Organizational structure of Fatah (pp. 120-21).
3. Fatah's budget (p. 133-34).
4. Personal knowledge of and relationship with Yasser Arafat (pp. 137-41).
5. Arafat's authority over expenditures of the PA (pp. 142-43).
6. Fatah's and the PA's offices (pp. 151-52)
7. Trial Ex. 962 (letter from the witness to Arafat) (pp. 202-08).
8. Trial Ex. 963 (letter from Marwan Barghouti to Arafat (pp. 208-09).

Plaintiffs hereby provide the following responses to defendants' counter-designations:

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14:14-22	No objection.	
15:7-10	No objection.	
15:14-15	No objection.	
15:19-20	No objection.	
16:8-21	No objection.	
17:3-17 18:24-19:17 20:21-21:13 22:7-10	Beyond the scope of Rule 106; Rule 403; relevance.	The witness testifies that he was held in prison by the Government of Israel for ten years for participating in peaceful, non-violent protests and that he has never been involved in any "resistance operations" that involved violence.
38:18-22	This was read as a counter-designation in plaintiffs' case.	
61:11-24	Beyond the scope of Rule 106; relevance.	The witness testifies that he visited Tunis to set up committees to support the Oslo Agreement.
62:11-16	Beyond the scope of Rule 106; relevance.	The witness was generally aware that there was an Oslo Agreement in 1993.
63:3-15	Beyond the scope of Rule 106; relevance.	The witness met with Arafat in Tunis to talk about political developments.
64:20-65:10	Beyond the scope of Rule 106; relevance.	The Tunis meetings were to establish committees to support the Oslo Agreement.
67:23-68:4	Beyond the scope of Rule 106; relevance.	Arafat supported the organization of these committees.

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
70:17-22; 72:14-73:9	No objection, except for the colloquy of counsel.	
73:10-74:6	Rule 403; lack of personal knowledge. The problem with this testimony is that the witness testified that he <i>was</i> paid for 5 years following his moving from the PA to Fatah (pp. 72, 74), so the statement that “all the buildings were destroyed” is unrelated to the topic of his pay.	The witness testifies that he there was a “problem” concerning the period of time he was given before having his pay from the PA cut off, and the problem was that “all the buildings were destroyed.”
77:20-78:13	No objection.	
79:21-80:23	No objection.	
86:7-14	No objection.	
87:3-6	Relevance.	The witness testifies that his Israeli counterpart on the Israeli side in his current job is Amos Gilad.
89:2-7		No objection.
98:24-99:24	Beyond the scope of Rule 106; relevance; Rule 403.	The witness testifies about the political goals of Fatah that he believes in as of 2009, which he says are ending the occupation of lands “which were occupied in 1967” and establishing “two states for two nations.”
111:5-112:20	No objection.	
112:24-113:4	No objection.	
122:7-11	This was read as a counter-designation in plaintiffs’ case.	
122:24-123:6	This was read as a counter-designation in plaintiffs’ case.	
124:17-125:5	This was read as a counter-designation in plaintiffs’ case.	
125:21-126:4	No objection.	
137:13-17	No objection.	
140:21-24	Not evidence; not relevant.	The witness explains that he does not understand the questions being asked.
141:5-14	Not evidence; not relevant.	The witness explains that he does not understand the questions being asked.
143:12-16	This was read as a counter-designation in plaintiffs’ case.	

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
147:17-148:13 149:2-12	Beyond the scope of Rule 106. This testimony opens the door to rebuttal testimony by Marcus.	The witness testifies that “the larger part of responsibility of establishment and creation and construction of the PA fell on Fatah” and that the “main role and responsibility that fell on these security systems was to confront all these anti-Oslo Agreement streams, who believe in violence and in continuing the violence.”
148:14-25 and 149:13-150:2 (in fairness cross-designations)	If the prior passage is to be read, this should also be included in fairness.	
149:2-12	No objection.	
150:5-17	No objection.	
150:24-151:4	No objection.	
151:15-152:5	This was read as a counter-designation in plaintiffs’ case.	
152:18-21	This was read as a counter-designation in plaintiffs’ case.	
152:24-153:8	This was read as a counter-designation in plaintiffs’ case.	
154:23-156:3	Beyond the scope of Rule 106; Rule 403.	The witness testifies he presented humanitarian aid requests to Arafat.
156:7-157:3	Beyond the scope of Rule 106; Rule 403; confusing; cumulative of 157:25-158:12.	The witness testifies about government allocations to political parties and the desire to avoid having Iran sending money to establish a party within the country.
157:25-159:24	Beyond the scope of Rule 106; Rule 403.	The witness provides additional information about the humanitarian aid provided by Arafat through Fatah or the PA.
161:2-25	No objection.	
167:4-168:16	Beyond the scope of Rule 106; Rule 403. This testimony opens the door to rebuttal testimony by Marcus.	The witness testifies that “Fatah believes in peace” and that “the visit of Sharon to the Al Aksa Mosque has prompted and caused the eruption of the situation and for the explosion of the whole issue” and some foreign members of Fatah were “inciting against Oslo”
169:17-22	No objection.	No objection.
169:23-170:3	Beyond the scope of Rule 106; Rule 403. Opens the door to Police Magazines calling for “liquidation of the Jews.”	The witness testifies that Fatah considered Israeli Jewish settlers in the West Bank and the Gaza Strip to be regular civilians.

<u>Page and Line</u>	<u>Response</u>	<u>Notes</u>
171:24-172:22	Beyond the scope of Rule 106; Rule 403. This testimony opens the door to rebuttal testimony by Marcus.	The witness testifies that “saying no to occupation” is resistance, and peaceful demonstrations are resistance and boycotting Israeli products is resistance and writing articles is resistance, but that Fatah is against bombing civilian areas “on the whole.”
174:5-9 174:12-176:14	Beyond the scope of Rule 106; Rule 403; relevance.	The witness opines that “Sharon started [the intifada] by visiting Al Aqsa Mosque, and that “the objective of the Intifada was peaceful” and then goes on to give numerous other opinions, “speaking generally” about “phases of the intifada.”
179:3-10 179:14-180:10	Beyond the scope of Rule 106; Rule 403; relevance.	The witness gives his opinions about the legality of shooting an Israeli soldier under international law and his hopes for a two-state solution to the conflict between the Israeli and Palestinian peoples.
204:4-204:13	Not evidence.	Debate between a lawyer and a translator over the correct translation of the word “Jihad”
204:14-205:14	This was read as a counter-designation in plaintiffs’ case.	
209:20-22	This was read as a counter-designation in plaintiffs’ case.	
219:23-220:11	Beyond the scope of Rule 106; Rule 403. This testimony opens the door to rebuttal testimony by Marcus.	The PA “always issued statements against violence”

Shaqbu'a, Yasser

All of defendants' counter-designations for this witness were read during plaintiffs' case.